

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 3, 2005

D043685 Woods v. Current et al.

The judgment is reversed as to the dismissal of the Woods' claims for injunctive and declaratory relief and is otherwise affirmed. The parties are to bear their own costs on appeal. McIntyre, J.;

We Concur: McConnell, P.J., Benke, J.

D045205 In re Karina C., a Juvenile

Appellant has not returned a completed application for appointment of counsel to Appellate Defenders, Inc. or informed this court of her intent to proceed with this appeal as required by this court's order of December 17, 2004. The appeal is accordingly dismissed.

D044989 K.O. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

Pending further order of this court in this matter, all proceedings in the juvenile court are stayed.

D045411 Dina M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Dina M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 4, 2005

D038170 Swann v. Daimlerchrysler Motors Corporation
D039277

The petition for rehearing is denied.

D044140 People v. Gilmore

The judgment is affirmed. Benke, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D045104 People v. Lutke

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

D045616 Aurora O., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The notice of intent filed on December 21, 2004 is untimely. The case is dismissed.

D043787 Crosspoint Venture Partners 1997 et al. v. Maxim Pharmaceuticals Inc., et al./McNeil

The petition for rehearing and the request for publication are denied.

D045074 In re Melissa N., a Juvenile

The appeal is dismissed. Irion, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D042713 Marcus v. Regents of the University of California

The petition for rehearing is denied.

D043793 Daun v. USAA Casualty Insurance Company

The judgment is reversed and this matter is remanded for further proceedings consistent with this opinion. Appellant is entitled to his costs on appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D045603 Hill v. Superior Court of San Diego County/People

The petition is denied.

D045604 Mansen v. Superior Court of San Diego County/Scripps Health et al.

The petition is denied.

**D042385 Building Industry Association of San Diego County et al. v. State
Water Resources Control Board et al./San Diego Baykeeper**

The petition for rehearing is denied. The opinion filed on December 7, 2004 is modified
[no change in judgment].

D045526 Horton v. The Superior Court of San Diego County/The People

The peition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 5, 2005

D044755 In re Juan V. F., a Juvenile

Order affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Huffman, J.

D044246 In re Sierra M., a Juvenile

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

**D043636 Harris Building Supply, Inc. v. Travelers Casualty and Surety
Company of America**

The judgment awarding attorney fees to Harris is reversed. Travelers is entitled to costs on appeal.

Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

D043269 People v. Quintero

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D045531 Horton v. Superior Court of Imperial County/People

The petition is denied.

D042318 Rasana v. San Diego Transit

The judgment is affirmed. Rasana to pay San Diego Transit's costs on appeal. Haller, Acting P.J.; We Concur: Aaron, J., Irion, J.

D044494 People v. Heller

The judgment is affirmed. McConnell, P.J.; We Concur: Nares, J., McDonald, J.

D043160 People v. Williams

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D044562 Jackson et al. v. Burnham Corporation

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D045200 In re Gladney on Habeas Corpus

The petition is denied.

D045445 In re Marriage of Lozano

Pursuant to California Rules of Court, rule 8, the appeal is dismissed for appellant's failure to timely designate the record.

D045477 San Diego Transit Corporation v. Bothwell

Pursuant to California Rules of Court, rule 8, the appeal filed November 18, 2004, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rule 5 (a), and for appellant's failure to timely deposit costs for preparing the court reporter's transcripts (Cal. Rules of Court, rule 4 (b)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 6, 2005

D043423 People v. Pedroza

The judgment is affirmed. Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

D044196 People v. Thomas

The judgment case No. SCE233036 is affirmed; the appeal in case Nos. SCD177918 and SCD174906 is dismissed. Huffman, Acting P.J.; We Concur: McDonald, J., Irion, J.

D043512 People v. Williams

The sentence is vacated and the matter is remanded to the trial court for further proceedings in accordance with this opinion. In all other respects the judgment is affirmed. McDonald, J.; I concur: McConnell, P.J., Dissenting: Benke, J.

D044259 People v. Icasiano

The judgment is affirmed as modified. The trial court shall advise the Department of Corrections of the modification. Aaron, J.; We Concur: McConnell, P.J., Huffman, J.

D044379 In re Victoria S., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D044398 In re Lisa G., a Juvenile

The opinion filed December 14, 2004 is ordered certified for publication.

D044457 People v. David

The petition for rehearing in this case was filed untimely. The court on its own motion, grants the petition for rehearing for the sole purpose of considering appellant's supplemental brief.

D041368 Bates v. Keirsey/Prometheus Nemesis Book Company, Inc.

Order denying Petition for rehearing and modifying opinion. It is ordered that the opinion filed herein on December 13, 2004, is modified. There is no change in the judgment.

D045629 Reich v. Superior Court of San Diego County/Tornambe

The petition is denied.

D044078 Stephen C., a Minor etc. v. James C. et al.

Appellant's motion for relief from default and to vacate the dismissal for failure to file appellant's opening brief is granted.

D045347 Woods et al. v. Neptune Terrace Condominium Association et al.
Appellant's motion to vacate dismissal and reinstate appeal is granted. The order of dismissal is vacated and the appeal is restarted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 7, 2005

D043836 Mar, LLC. v. Albertson's, Inc.

The judgment is reversed and remanded with directions to enter an order denying Albertson's motion for judgment on the pleadings. Landlord is entitled to costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

D043393 People v. Espinoza

The judgment is affirmed. McConell, P.J.; I Concur: Huffman, J.; I Concur In The Result: Benke, J.

D043094 Incorvaia & Associates v. Margala

The judgment is affirmed. Each party shall bear its own costs on appeal. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D043081 People v. Harrison

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Aaron, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D043415 People v. Shepard

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Huffman, J.

D044243 People v. Kennedy

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Aaron, J.

D042562 Petty et al., v. Hill

The judgment of the trial court is reversed. The trial court is directed to make new findings of fact and conclusions of law, based on the evidence presented at the trial and the record of prior proceedings, addressing specifically whether the Hill remodel violates any of the CC&R provisions and, if so, which provisions it violates, and to enter a new judgment based on these findings. Hill shall have costs on appeal. Aaron, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D042903 Harron v. Bonilla et al.

The order is affirmed. Harron is entitled to costs on appeal. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: Huffman, J., McDonald, J.

D044873 In re Dylan H. et al., Juveniles

Appellant, Gregory H., has failed to file a brief after notice given pursuant to this court's letter of December 17, 2004. The appeal as to Gregory H. is dismissed. Respondent's

brief is due on or before February 5, 2005.

D043528 Shrestha v. NRT, Inc. et al.

The order denying class certification is reversed with directions to conduct appropriate further proceedings to grant class certification according to the class definition to be established consistent with the principles set forth in this opinion. Costs are awarded to appellant. Huffman, J.;

We Concur: McConnell, P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
JANUARY 7, 2005 (Continued)

D043097 Conservatorship of Rodriguez

The order is affirmed. Lingenfelder is awarded her costs on appeal. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.

D042877 People v. Shaw

The judgment is affirmed as to the conviction. The judgment is reversed as to the sentence and the case is remanded to the superior court to conduct a new sentencing hearing. McIntyre, J.; I Concur: Huffman, J., Concurring and Dissenting by opinion, Benke, Acting P.J.

D045499 Misty I. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Misty I. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

D045554 Cress v. Employment Appeals Board of the County of Imperial/County of Imperial

The appellant having failed to timely pay the filing fee, the appeal is dismissed. (Cal. Rules of Court, rule 1(c)(5)).